

03/03/2006 AKELE

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PTO/SB/26 (09-04)
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## TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING

Docket Number (Optional)

REJECTION OVER A "PRIOR" PATENT	20343/1202370-US2
In re Application of: Donald B. Borders et al.	
Application No.: 10/810,741-Conf. #9685	
Filed: March 26, 2004	
For: EXTRACTIVE PURIFICATION OF LIPOPEPTIDE ANTIBIOTICS	
The owner*, Migenix Inc. , of instant application hereby disclaims, except as provided below, the terminal part of the statutory	100 percent interest in the term of any patent granted on the
instant application which would extend beyond the expiration date of the full statutory term of <b>prior 6,511,962</b> as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted enforceable only for and during such period that it and the <b>prior patents</b> are commonly owner patent granted on the instant application and is binding upon the grantee, its successors or assistant application and is binding upon the grantee.	of said <b>prior patents</b> is presently on the instant application shall be d. This agreement runs with any
In making the above disclaimer, the owner does not disclaim the terminal part of the term of application that would extend to the expiration date of the full statutory term as defined in 35 patents, "as the term of said prior patents is presently shortened by any terminal disclair patents later:  expire for failure to pay a maintenance fee; are held unenforceable; are found invalid by a court of competent jurisdiction; are statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321; have all claims canceled by a reexamination certificate; are reissued; or are in any manner terminated prior to the expiration of its full statutory term as presently sho	U.S.C. 154 and 173 of the prior ner," in the event that said prior
Check either box 1 or 2 below, if appropriate.	
1. For submissions on behalf of a business/organization (e.g., corporation, partnership etc.), the undersigned is empowered to act on behalf of the business/organization.	, university, government agency,
I hereby declare that all statements made herein of my own knowledge are true and that a and belief are believed to be true; and further that these statements were made with the know and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of and that such willful false statements may jeopardize the validity of the application or any paten	rledge that willful false statements Fitle 18 of the United States Code
2. X The undersigned is an attorney or agent of record. Reg. No. 46,985	
Signature 2	February 28, 2006 Date
Jeffrey C. Pepe, Ph.D.  Typed or printed name	
	(206) 262-8911 Telephone Number
X Terminal disclaimer fee under 37 CFR 1.20(d) is included.	
*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the ass Form PTO/SB/96 may be used for making this certification. See MPEP § 324.	ignee (owner).
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	STATEMEN	T UNDER 37	CFR 3.73(b	<u>)</u>
Applicant/Patent Owner:	Migenix Inc.			
Application No./Patent No./Control No.:	10/810,741	Filed/Is	sue Date:	March 26, 2004
Entitled: EXTRACTIV	E PURIFICATION OF L	IPOPEPTIDE AN	TIBIOTICS	
Migen (Name of Assignee)	ix Inc.	, a(Type of Assigned	Co , e.g., corporation, p	prporation partnership, university, government agency, etc.)
states that it is:				
1. X the assignee o	f the entire right, title, ar	nd interest; or		
2. an assignee of	less than the entire righ	nt, title and intere	st.	
*	percentage) of its own		%	6)
in the patent application/p				
	rom the inventor(s) of th the United States Paten			ntified above. The assignment
Frame	, or a true cop			
OR	,		ŭ	
B. X A chain of title from assignee as follows:		e patent applicat	on/patent ider	ntified above, to the current
	ders, Donald B.	То		e Pharm, Inc.
	ent was recorded in the			
Reel	013135 , Frame			
	Source Pharm, Inc. ent was recorded in the	To		s Pharmaceuticals, Inc.
	ont was recorded in the 013222 Frame			ppy thereof is attached.
3. From: Intra	abiotics Pharmaceuticals	s, Inc. To	: Micrologia	Riotech Inc.
	ent was recorded in the			lemark Office at
Reel	013335 , Frame	<u>0774</u> , or	for which a co	ppy thereof is attached.
X Additional do	cuments in the chain of	title are listed on	a supplement	tal sheet.
to the assignee was [NOTE: A separate of	s, or concurrently is being copy (i.e., a true copy of the copy of	ng, submitted for the original assign	r recordation p ment documen	in of title from the original owner cursuant to 37 CFR 3.11. t(s)) must be submitted to ent in the records of the USPTO.
The undersigned (whose	title is supplied below) i	s authorized to a	ct on behalf of	the assignee.
I le unaciongnea (wilde	Aug /		J. J., J.,	February 28, 2006
	Signature			Date
( ) Jet	fery C. Pepe, Ph.D.			(206) 262-8900
	nted or Typed Name			Telephone Number
At	torney for Assignee			
	Title			

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STATEMENT UNDER 37 CFR 3.73(b) - Supplemental Sheet				
Continuati	on of chain of title from the inven	tor(s) to the current assignee.		
4. From:	Micrologix Biotech Inc.	To: Migenix Inc.		
The o	document was recorded in the Ur	nited States Patent and Trademark Office	at	
	016662 Frame 05	or for which a copy thereof is att	tached	